



2814

Patent
Attorney Docket: 612,404-387
(Former L&L Ref: 267/242)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8/Terminal
Disclaimer

ok

In re the Application of:

HELLER, Michael J.

Serial No.: 09/997,374

Filed: November 29, 2001

For: HYBRIDIZATION OF
POLYNUCLEOTIDES CONJUGATED
WITH CHROMOPHORES AND
FLUOROPHORES TO GENERATE
DONOR-TO-DONOR ENERGY
TRANSFER SYSTEM

Group Art Unit: 1637

Examiner: J. Fredman

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OCT 25 2002

TECH CENTER 1600/2900

TERMINAL DISCLAIMER

Commissioner for Patents
Washington, D.C. 20231

Sir:

I, John Kappos, represent that I am an attorney of record for the above-identified application. Nanogen, Inc. (hereinafter referred to as "Nanogen") is the owner of 100% interest in the above-identified invention by virtue of assignment from the inventor. The assignment from the inventor to Nanogen was recorded in the Patent and Trademark Office on March 1, 1996, on Reel 7836, Frame 0503.

Nanogen hereby disclaims the terminal part of any patent granted on the above-identified application that would extend beyond the expiration date of U.S. Patent No. 6,162,603. Moreover, Nanogen hereby agrees that any patent so granted on the above-identified application

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CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

October 16, 2002
Date of Deposit

Cynthia B. Pacheco
Cynthia B. Pacheco

shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,162,603, this agreement to run with any patent granted on the above-identified application and to be binding upon Nanogen, its successor, or assigns.

Nanogen does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term of U.S. Patent No. 6,162,603 in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.312(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Applicant is other than a large entity. Enclosed is a check for the requisite fee of \$55.00.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: October 16, 2002

By: John Kappos
John Kappos
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IR1:497498.1



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TRANSMITTAL LETTER

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed July 16, 2002, in the above patent application, the following documents are enclosed:

1. Amendment and Response;
2. Terminal Disclaimer (and fee of \$55.00);
3. our check (no. 555234) in the amount of \$55.00; and
4. Receipt verification postcard.

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

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Applicant is other than a large entity. If an extension of time is required, please consider this a petition therefor. The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 50-0639.

Respectfully submitted,
O'MELVENY & MYERS LLP

Dated: October 16, 2002

By: John Kappos
John Kappos
Reg. No. 37,861
Attorneys for Applicants

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